

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

TZIVA RAPOPORT-HECHT,  
MAGGIE TSAN, and ERICA WILDSTEIN,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

SEVENTH GENERATION, INC.,

Defendant.

No. 7:14-cv-09087-KMK

**DECLARATION OF JASON P. SULTZER  
IN SUPPORT OF: (1) PLAINTIFFS'  
MOTION FOR FINAL APPROVAL OF  
SETTLEMENT AND (2) PLAINTIFFS'  
MOTION FOR AWARD OF  
ATTORNEYS' FEES AND  
REIMBURSEMENT OF LITIGATION  
EXPENSES TO CLASS COUNSEL  
AND SERVICE AWARDS TO CLASS  
REPRESENTATIVES**

I, Jason P. Sultzer, pursuant to 28 U.S.C. § 1746 and under penalty of perjury, hereby declare as follows:

1. I am the founding and managing partner of The Sultzer Law Group, a law firm that specializes in class action litigation. I am a member of the bar of the Southern District of New York and am a member in good standing of the state bar of New York as well as numerous other federal courts. I am one of the court-appointed co-lead counsel in the above-captioned action.

2. A copy of the firm's resume is attached here as Exhibit A.

**TIME AND EXPENSE INCURRED BY SULTZER LAW GROUP IN THE PROSECUTION OF THE ACTION**

3. Listed below in Table 1 is the time The Sultzer Law Group expended to date in this matter. The information that follows is based on information collected from the books and records of The Sultzer Law Group, and from information provided to me from employees working under my supervision and control.

4. The Sultzer Law Group has spent 307 hours litigating this Action and its lodestar, as set forth below, is based on its current hourly rates, which are usual and customary in an Action of this type. The lodestar totals \$214,900.

**TABLE 1**

| <b>THE SULTZER LAW GROUP - Seventh Generation</b> |                              |             |              |                  |
|---|------------------------------|-------------|--------------|------------------|
| <b>Name of Professional (Last, First)</b>         | <b>Title of Professional</b> | <b>Rate</b> | <b>Hours</b> | <b>Lodestar</b>  |
| Jason Sultzer                                     | Partner-Attorney             | \$700       | 229          | \$160,300        |
| Joseph Lipari                                     | Partner-Attorney             | \$700       | 78           | \$54,600         |
| <b>TOTAL</b>                                      |                              |             | <b>307</b>   | <b>\$214,900</b> |

Based on my experience, the hourly rates my firm charges are within the range of rates that attorneys of equivalent experience and skill, who practice at firms involved in nationwide class action litigation, charge. Further, unlike many law firms, the Sultzer Law Group regularly litigates class actions for consumers and for defense clients. Our defense clients pay us an hourly rate of \$650. And, with respect to our work on behalf of consumers, attorneys in our firm have been approved at hourly rates of \$700<sup>1</sup>.

5. Moreover, in determining the firm's hourly rates from year to year, the partners consider rates that counsel at other national class actions firms seek, and we appropriately and thoughtfully set our hourly rates. Based on the high degree of experience of the Sultzer Law Group in the area of consumer and class action litigation and the nationwide nature of the resolution in this case, I believe it is appropriate to apply the market rates for the home market for each attorney at our firm.

6. Since the firm's founding in 2013, we have acted as lead counsel in numerous high-profile "Natural" consumer fraud and false advertising class actions. For instance, we recently acted as lead counsel in the prosecution of the following representative consumer class actions:

- *Assis, David et al. v. Ernest Supplies LLC* (New York, Kings County Supreme Court 505605/2016)
- *Campbell, Kathleen et al. v. McBride Research Laboratories, Inc., et al.* (New York, Bronx County Supreme Court 26761/2016E)
- *Ciancio, Silvio et al. v. Beaumont Products Incorporated, et al.* (SDNY 16-cv-08124)

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<sup>1</sup> See, e.g. IN RE: SHOP-VAC MARKETING AND SALES PRACTICES LITIGATION, MDL No. 2380, 4:12-md-02380-YK (Middle District of Pennsylvania).

- *Cordoba, Kelly et al. v. Virgin Scent, Inc., et al. (New York, Westchester County Supreme Court 56355/2016)*
- *Douek, Vivian et al. v. McNabb LLC (EDNY 16-cv-01763)*
- *Guerra, Ruth et al. v. Hero Nutritionals, Inc. (EDNY 16-cv-04563)*
- *Haack, Jeffrey et al. v. Drew's LLC (SDNY 16-cv-06022)*
- *Harabedian, Paul et al. v. Hammer Nutrition, LTD (EDNY 14-cv-0459)*
- *Jacobs, Marcella et al. v. Camille Rose L.L.C. (SDNY 16-cv-08937)*
- *Kaatz, Marie and Gagliardi, Abigail, et al. v. Hyland's Inc., et al. (SDNY 16-cv-00237)*
- *Nicotra, Jennifer et al. v. Babo Botanicals, LLC (EDNY 16-cv-00296)*
- *Rosner, Ari v. CleanWell LLC (EDNY 16-cv-01780)*
- *Rosner, Yisroel et al. v. Spectrum Brands, Inc. (EDNY 16-cv-01693)*
- *Silva, Christopher et al. v. Smucker Natural Foods, Inc. and J.M. Smucker Co. (EDNY 14-cv-6154)*
- *Sitt, Carolyn et al. v. Nature's Bounty, Inc., NBTY, Inc. (EDNY 15-cv-4199)*
- *Sullivan, Noelky et al. v. Church & Dwight Inc. (EDNY 15-cv-04737)*
- *Vincent, Wesley, et al. v People Against Dirty, PBC. and Method Products, PBC., (SDNY 7:16-cv-06936-NSR)*

7. Listed below in Table 2 are the out-of-pocket costs my firm incurred in this litigation. The expenses in this Action are supported by vouchers, checks, time records, and other documents:

**TABLE 2**

| <b>THE SULTZER LAW GROUP - Seventh Generation</b> |                 |
|---|-----------------|
| <b>Category of Expense</b>                        | <b>Amount</b>   |
| Court Filing Fees                                 | \$400           |
| Expert/Consultant Costs                           | \$12,200        |
| Travel/Miscellaneous                              | \$286           |
|   |                 |
| <b>TOTAL</b>                                      | <b>\$12,886</b> |

**DEDICATION TO PURSUIT OF THIS MATTER  
AND THE RISK INVOLVED**

8. In addition to the hours The Sultzer Law Group's partners have expended on this case, we took great financial risk in advancing costs and expenses associated with the prosecution of the action. My firm took this matter on a contingent basis, agreeing to advance all costs and expenses necessary to prosecute the litigation. This constituted a considerable risk for my firm, as there was no guarantee we would recoup any of the costs or fees.

9. The diligent efforts of Plaintiffs and Class Counsel to prosecute this case, as described herein, demonstrate that Plaintiffs and Plaintiffs' Counsel have more than adequately represented and acted for the benefit of the Settlement Class as a whole. Additionally, apart from an incentive award (if granted), none of the Plaintiffs will receive any benefits beyond those they would receive as ordinary Class Members. The Named Plaintiffs actively participated in this litigation, with several responding to discovery.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 12th day of December, 2016, in Poughkeepsie, New York.

**THE SULTZER LAW GROUP**

By: 

Jason P. Sultzer, Esq. (Bar ID #: JS4546)

*sultzerj@thesultzerlawgroup.com*

Joseph Lipari, Esq. (Bar ID #: JL3194)

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***Court Appointed Co-Lead Class Counsel***

EXHIBIT A



The Sultzer Law Group, P.C. focuses on complex civil litigation, including consumer class actions. The firm is headquartered in New York, and maintains offices in California, New Jersey, and Pennsylvania. Since its founding in 2013, The Sultzer Law Group, P.C. has served as counsel in numerous high-profile consumer class action cases. The firm is included in Martindale-Hubbell's Bar Register of Preeminent Lawyers for its class action practice. The partners are AV rated by Martindale-Hubbell and have been selected as Super Lawyers. The firm's founding partner, Mr. Sultzer, has earned selection as a Fellow of the Litigation Counsel of America (LCA), recognizing the country's top trial attorneys. The firm's attorneys have contributed to or been featured in various well known publications, regarding their class action practice, including: *Law360*, *Inside Counsel Magazine*, *Risk Management Magazine*, and *CNBC News*. More detail about the firm, its practice areas, and its attorneys appear on its website: [www.thesultzerlawgroup.com](http://www.thesultzerlawgroup.com)

## **I. Representative Practice Areas**

### **Consumer Protection Class Action Litigation**

Attorneys at The Sultzer Law Group, P.C. have advocated for consumers' rights, successfully challenging some of the nation's largest and most powerful corporations for a variety of improper, unfair, and deceptive business practices in a wide range of industries including, the financial, cosmetic, food, and supplement industries. Through our efforts, we have recovered significant benefits for our consumer clients.

Recent Representative matters include:

- *Assis, David et al. v. Ernest Supplies LLC* (Kings County Supreme Court 505605/2016)
- *Campbell, Kathleen et al. v. McBride Research Laboratories, Inc., et al.* (New York, Bronx County Supreme Court 26761/2016E)
- *Ciancio, Silvio et al. v. Beaumont Products Incorporated, et al.* (SDNY 16-cv-08124)
- *Cordoba, Kelly et al. v. Virgin Scent, Inc., et al.* (New York, Westchester County Supreme Court 56355/2016)
- *Dayan, Eli et al. v. Swiss-American Products, Inc.* (EDNY 15-cv-06895)
- *Douek, Vivian et al. v. McNabb LLC* (EDNY 16-cv-01763)
- *Guerra, Ruth et al. v. Hero Nutritionals, Inc.* (EDNY 16-cv-04563)
- *Gurkov, Levi et al. v. Frederick Hart Company Inc. et al.* (Nassau County Supreme Court 601706/2016)
- *Haack, Jeffrey et al. v. Drew's LLC* (SDNY 16-cv-06022)
- *Harabedian, Paul et al. v. Hammer Nutrition, LTD* (EDNY 14-cv-0459)
- *Hecht, Shea, et al. v. Wells Fargo Bank, N.A., et al.* (EDNY 15-cv-02338)





*A Complex Litigation & Trial Practice*

NEW YORK | PENNSYLVANIA | NEW JERSEY | CALIFORNIA

- *Huzarsky, Jonathan et al. v. Little Kids, Inc. (U.S. District Court District of Massachusetts 15-cv-13613)*
- *Jacobs, Marcella et al. v. Camille Rose L.L.C. (SDNY 16-cv-08937)*
- *Jones, Maureen et al. v. John WM Macy Cheesesticks, Inc. (Kings County Supreme Court 509337/2015)*
- *Kaatz, Marie and Gagliardi, Abigail, et al. v. Hyland's Inc., et al. (SDNY 16-cv-00237)*
- *Maor, Marshall et al v. Paramount Country Club, LLC, et al. (Rockland County Supreme Court 032284/2016)*
- *Markos, Jaish et al. v. Russell Brands, LLC (SDNY 16-cv-4362)*
- *Moschetta, Marc et al. v. Wal-Mart Stores, Inc. d/b/a Great Value (SDNY 16-cv-01377)/MDL: 2705 & 2708*
- *Nicotra, Jennifer et al. v. Babo Botanicals, LLC (EDNY 16-cv-00296)*
- *Principe, Mark et al. v. Edison Nation, LLC et al. (EDNY 15-cv-05453)*
- *Rosner, Ari v. CleanWell LLC (EDNY 16-cv-01780)*
- *Rosner, Yisroel et al. v. Spectrum Brands, Inc. (EDNY 16-cv-01693)*
- *Silva, Christopher et al. v. Smucker Natural Foods, Inc. and J.M. Smucker Co. (EDNY 14-cv-6154)*
- *Sitt v. Nature's Bounty, Inc. et al. (SDNY 15-cv-04199)*
- *Sullivan, Noelky et al. v. Church & Dwight Inc. (EDNY 15-cv-04737)*
- *Thomas, Jenny v. YCC et al. (Dutchess County Supreme Court 5456/2014)*
- *Weisberg, Cynthia et al. v. Aladdin Bakers, Inc. (Kings County Supreme Court 503704/2015)*
- *Vincent, Wesley, et al. v People Against Dirty, PBC. and Method Products, PBC., (SDNY 7:16-cv-06936-NSR)*

## **Commercial Litigation**

Attorneys at The Sultz Law Group, P.C. handle high-stakes commercial cases for both plaintiffs and defendants. We specialize in significant liability exposure involving issues such as business torts, intellectual property matters in which we have pursued and defended against patent and trademark infringement claims, breach of contract, UCC sale of goods, predatory lending, misappropriation of trade secrets/customers, fraud, unfair competition, breach of fiduciary duty, conversion, business transactions, and land use actions. We have successfully represented municipalities as well as companies and individuals in a wide range of industries, including real estate, telecommunications, retail, manufacturing, construction, and alarm/emergency response systems. As a result of our aggressive representation, we have recovered millions of dollars on behalf of clients embroiled in contentious business disputes.



Recent representative matters include:

- *101 Imaging LLC DBA Acuscan v. Dr. Rossi, MD., P.C. et al.* (Nassau County Supreme Court 601008/2014)
- *Asset Enhancement Solutions, LLC v. Lifewatch, Inc.* (Nassau County Supreme Court 601542/2014)
- *Brune & Richard LLP v. Daniel Beyda et al.* (New York County Supreme Court 650443/2015)
- *CDP Holdings Group, LLC v. Daniel Beyda* (New York County Supreme Court 650261/2016)
- *Craig C. Goldberg v. GA Capital Partners LLC et al.* (New York County Supreme Court 652748/2015)
- *Daniel Beyda v. Daniel DiPietro et al.* (Nassau County Supreme Court 600916/2015)
- *Dover Madison Capital Management LLC v. Clearwater Systems Corp. et al.* (New York County Supreme Court 652315/2015)
- *Eddie Sitt, individually and derivatively and on behalf of Sitt Asset Management LLC and Sitt Leasing, LLC v. Ralph Sitt et al.* (New York County Supreme Court 652490/2016)
- *Enterprise Radiology, P.C. d/b/a Washington Heights Imaging v. CDP Holdings Group, LLC et al.* (Nassau County Supreme Court 601786/2015)
- *Federal Trade Commission et al. v. Lifewatch Inc. et al.* (U.S. District Court, Northern District of Illinois 15-cv-05781)
- *Lease-It Capital Corp. d/b/a Acculease v. I.M.S./Imaging Medical Solutions, Inc. et al.* (New York County Supreme Court 151316/2015)
- *Life Alert Emergency Response, Inc. v. Lifewatch, Inc.*, 2:08-cv-02184-CAS (FFMx) (C.D. Cal)
- *Long Island Radiology Associates, P.C. v. Daniel Beyda M.D. et al.* (Nassau County Supreme Court 602572/2015)
- *Scanner Guard Corporation v. Excelsis Investments, Inc. et al.* (EDPA 16-cv-00516)
- *Walker Winslow Group, LLC d/b/a Paradigm Health Plans v. Ross Krasnow, et al.* (U.S. District Court District of New Jersey 14-cv-7772)

### **Mass Tort Litigation**

Attorneys at The Sultz Law Group, P.C. have successfully defended companies against mass toxic tort cases docketed throughout the United States. Our cases have ranged from single-plaintiff, single-defendant, and single-product claims of personal injury to matters which involved hundreds of plaintiffs and hundreds of products. We have obtained defense verdicts and summary judgment orders in a number of asbestos, lead, latex, and benzene cases.



## II. Partner Biographies

### Jason P. Sultz

Jason P. Sultz represents clients throughout the United States and has substantial experience in class actions, product liability, mass torts, business disputes, personal injury litigation, and intellectual property-related issues.

Mr. Sultz has successfully defended and prosecuted nationally recognized companies in highly publicized class action lawsuits in state and federal courts, including proceedings before the

Judicial Panel on Multidistrict Litigation. These class actions involved a wide variety of matters, including unfair competition, breach of warranty, product-related issues, employment discrimination, civil rights, overtime wages, the Fair Debt Collection Practices Act, the Telephone Consumer Protection Act, and consumer protection statutes of nearly all fifty states. Mr. Sultz has successfully opposed class certification and has obtained dismissals in cases prior to class certification by asserting defenses such as federal preemption, primary jurisdiction, and lack of standing. Mr. Sultz is a frequent author and lecturer about class action lawsuits and has been quoted in national publications concerning the Class Action Fairness Act and class action settlements.

Mr. Sultz also has successfully litigated hundreds of product liability cases involving a wide range of products, including catastrophic injury and wrongful death matters resulting from fires and electrocutions. Most recently, Mr. Sultz conducted a trial in which the court returned a favorable verdict in a case involving allegations that his client's product caused a fire and property damage in excess of \$10 million.

Additionally, Mr. Sultz has extensive experience in mass tort cases, including those involving asbestos and the alleged health effects of cell phone use. Given Mr. Sultz's significant experience in mass tort matters, he regularly advises his clients during corporate crisis situations associated with product recalls, federal agency investigations, state attorney general inquiries, and mass tort and class action litigation threats.

Mr. Sultz also routinely litigates matters involving complex commercial disputes. He represents both plaintiffs and defendants in these cases. These matters include contractual disputes, business fraud, predatory lending, misappropriation of trade secrets/customers, land use actions, and unfair competition. These clients have been engaged in the real estate, retail, financial, telecommunications, construction, and manufacturing industries. Most recently, Mr. Sultz obtained a multi-million dollar recovery on behalf of a real estate developer in a breach of contract action involving the development of waterfront property in New York City.



Prior to opening The Sultz Law Group P.C., Mr. Sultz was an equity partner at one of the largest law firms in the country where he served as the co-chairman of its class action practice group. Earlier in his career, Mr. Sultz was in-house counsel for Owens Corning, a Fortune 500 Company, where he was involved in defending the company against tens of thousands of asbestos lawsuits throughout the country.

Mr. Sultz has received the Martindale-Hubbell AV rating, indicating that his legal peers rank him at the highest level of professional excellence. He was also named as a “Mass Tort Lawyer of the Year” by American Law Media, and has been recognized as a Super Lawyer for the last 6 years. Mr. Sultz, was also featured on the front cover of the Wall Street Journal's Legal Leader's magazine in 2014 and 2015 designating him as one of New York's top rated lawyers. In

addition, Mr. Sultz has earned selection as a Fellow of the Litigation Counsel of America (LCA), recognizing the country's top trial attorneys. The LCA is an invitation-only honorary society that is composed of less than one-half of one percent of American lawyers.

### **Joseph Lipari**

Joseph Lipari has litigated in state and federal courts throughout the United States, and he has appeared before binding arbitration panels. Mr. Lipari has achieved numerous successful outcomes as counsel for plaintiffs and defendants, including verdicts and settlements.

He has successfully represented businesses in complex suits arising out of high-profile, catastrophic events including: underground mining accidents in Alabama; steel mill explosions in Pennsylvania and Louisiana; and extended unplanned shutdowns and outages in mills, plants, and factories located across the United States and abroad.

He is admitted to the bars of New York, Pennsylvania, and New Jersey. He has also appeared as counsel, by way of pro hac vice admission, in over twenty states. Mr. Lipari has lectured and published on topics including trial strategy, patent disputes, hydrofracking in the Marcellus Shale, and risk management practices.

Mr. Lipari is a 2002 graduate of Seton Hall University School of Law. Before law school, he attended Officer Candidate School in Quantico, Virginia and was offered a commission as Second Lieutenant in the United States Marine Corps.

Prior to joining The Sultz Law Group P.C., Mr. Lipari was a partner at a prominent national litigation firm. Earlier in his career, he was associated with one of the largest law firms in the country.



Mr. Lipari has received the Martindale-Hubbell AV rating, indicating that his legal peers rank him at the highest level of professional excellence. He was also named as a “Mass Tort Lawyer of the Year” by American Law Media, and has been recognized as a Super Lawyer.

### **Adam Gonnelli**

Mr. Gonnelli is a partner at The Sultz Law Group, P.C. Throughout his career, Mr. Gonnelli has served as lead or co-lead counsel in numerous high-profile class action cases throughout the country resulting in multi-million dollar recoveries to consumers, employees, and investors. Mr. Gonnelli concentrates his practice on consumer fraud class actions, wage and hour litigation, and transactional/commercial litigation. Some of his representative cases include *Guttentag v. Ruby Tuesday* (\$3 million recovery for employees in FLSA wage suit); *In re NutraQuest, Inc.*, No. 06-202 (D.N.J.) (consumer fraud case against national diet supplement company); *Wanzo v. Nextel Commc’ns, Inc.*, No. GIC 791626 (Cal. Sup. Ct.) (consumer case challenging change in “nights and weekends” plan); *Rice v. Lafarge North America*, No. 268974 (Md. Cir. Ct.) (merger case resulted in a benefit of \$388 million); and *In re Fox Entm’t Group, Inc. S’holders Litig.*, No. 1033-N (Del. Ch. 2005) (benefit to shareholders of \$450 million).

While attending Cornell Law School, Mr. Gonnelli served as Editor-in-Chief of the Cornell Journal of Law and Public Policy and was a member of the Atlantic Regional Championship moot court team in the Jessup International Law Moot Court Competition (1997). At Rutgers University, Mr. Gonnelli lettered in football and fencing and served as Student Government President.

Prior to joining The Sultz Law Group, Mr. Gonnelli was a partner at a national plaintiff class action law firm where he served as the chairman of its Wage Theft Practice Group. Before attending Law School, Mr. Gonnelli was a Financial Writer at the Federal Reserve Bank of New York, where he wrote educational materials on international trade and monetary policy.